IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JERMAINE MAXWELL,

Plaintiff,

v. Case No.: 4:16-cv-1340

CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE,

Defendant.
_______________________________________/

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JERMAINE MAXWELL, by and through his undersigned counsel, hereby sues Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, and in support thereof alleges as follows:

INTRODUCTION

1. Plaintiff brings this action for unpaid wage compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq*. Plaintiff seeks damages for unpaid wages, liquidated damages, injunctive relief, declaratory relief, and a reasonable attorney's fee and costs.

JURISDICTION

2. Jurisdiction is conferred on this Court by Title 28 U S.C. §1337 and by Title 29 U.S.C. §216(b).

VENUE

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) because Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, has offices located in Houston, Texas.

THE PARTIES

4. Plaintiff is an individual who resides in Houston, Texas, and worked for Defendants from April of 2012, through the present as a "laborer," and was paid a weekly salary of $275.00.

5. Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, is a sole proprietor and resident of the State of Texas and at all times material to this complaint, maintained and operated a business in Houston, Texas,

COMMON ALLEGATIONS

7. Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, operates a company primarily engaged in business of selling new and used furniture and home goods and is an employer as defined by 29 U.S.C. § 203(d).

8. Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, has employees subject to the provisions of 29 U.S.C. § 206 in the facility where Plaintiff was employed.

9. At all times material to this complaint, Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, employed two or more employees

and had an annual dollar volume of sales or business done of at least $500,000.00.

10. At all times material to this complaint, Defendant, CHARLES GRAY, D/B/A 2ND DEBUT FURNITURE RESALE, was an enterprise engaged in interstate commerce, operating a business engaged in commerce or in the production of goods for commerce as defined by § 3(r) and 3(s) of the Act, 29 U.S.C. §§ 203(r)-(s).

11. Plaintiff was at all times material individually engaged in commerce as his work was directly related to the movement products and information in interstate commerce. Specifically, Plaintiffs work required him to handle goods and merchandise moving through interstate commerce.

12. Defendant either knew about or showed reckless disregard for the matter of whether his conduct was prohibited by the FLSA and failed to act diligently with regard to his obligations as an employer under the FLSA.

13. Defendant failed to act reasonably to comply with the FLSA, and so Plaintiff is entitled to an award of liquidated damages in an equal amount as the amount of unpaid wages deemed to be owed pursuant to 29 U.S.C. § 216(b).

14. Plaintiff is also entitled to an award of reasonable and necessary attorneys' fees, costs, expert fees, mediator fees and out-of-pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal

Rules of Civil Procedure.

15. Plaintiff has retained the law firm of Ross Law, P.C., to represent him in this action. Plaintiff has entered into a valid contract with Ross Law, P.C., and has appointed the undersigned counsel to be his sole agent, attorney-in-fact, and representative in this suit, exclusive of all other parties, including Plaintiff. To avoid tortious interference with Plaintiff's obligations to his attorneys in this suit, all communications concerning this suit must be made by Defendant and Defendant's attorneys solely to and through the undersigned counsel. Plaintiff's contract with and representation by the undersigned attorney gives rise to a claim for reasonable and necessary attorney's fees that Plaintiff is entitled to collect against Defendant pursuant to 29 U. S. C. § 216(b).

COUNT I. UNPAID OVERTIME WAGES

16. Plaintiff re-alleges and incorporated paragraphs 1-15, *supra*, as if fully set forth herein.

17. During one or more weeks of Plaintiff's employment with Defendant, Plaintiff worked in excess of forty (40) hours.

18. Throughout the employment of Plaintiff, the Defendant repeatedly and willfully violated Sections 7 and 15 of the Fair Labor Standards Act by failing to compensate Plaintiff at a rate not less than one and one-half times his regular rate of

pay for each hour worked in excess of 40 in a workweek. Instead, Plaintiff was paid his weekly salary of $275.00 for all hours worked without any additional overtime premium.

19. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime wages which were not paid that should have been paid.

20. The acts described in the preceding paragraphs, *supra*, violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for all hours worked in excess of 40 per workweek.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands Judgment against Defendant for the following:

a. Unpaid overtime wages found to be due and owing;

b. An additional amount equal to the amount of overtime wages found to be due and owing as liquidated damages;

c. Prejudgment interest in the event liquidated damages are not awarded;

d. Reasonable attorneys' fees, costs, expert fees, mediator fees and out of pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal Rules of Civil Procedure; and,

e. For any such other relief as the Court may find proper, whether at law or in equity.

COUNT II. UNPAID MINIMUM WAGES

21. Plaintiff re-alleges and incorporated paragraphs 1-15, *supra*, as if fully set forth herein.

22. During one or more weeks of Plaintiff's employment with Defendant, Plaintiff performed work and was paid less than the then-current minimum wage amount of $7.25 per hour.

23. Throughout the employment of Plaintiff, the Defendant repeatedly and willfully violated Sections 7 and 15 of the Fair Labor Standards Act by failing to compensate Plaintiff at a rate not less than the then-current minimum wage of $7.25 per hour for each hour worked in a workweek.

24. Defendant willfully failed to pay Plaintiff minimum wage for each hour worked in a workweek.

25. The acts described in the preceding paragraphs, *supra*, violate the Fair Labor Standards Act, which prohibits the denial of minimum wage compensation for all hours worked in a workweek.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands Judgment against Defendant for the following:

a. Unpaid minimum wages found to be due and owing;

b. An additional amount equal to the amount of minimum wages found to be due and owing as liquidated damages;

c. Prejudgment interest in the event liquidated damages are not awarded;

d. Reasonable attorneys' fees, costs, expert fees, mediator fees and out of pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal Rules of Civil Procedure; and,

e. For any such other relief as the Court may find proper, whether at law or in equity.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted, May 12, 2016.

Respectfully submitted,

ROSS LAW GROUP

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